



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 14, 1998

Mr. John Steiner  
Division Chief  
City of Austin-Law Department  
P.O. Box 1546  
Austin, Texas 78767-1546

OR98-1935

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 117489.

The City of Austin Police Department (the "department") received a request for eight categories of information concerning a "vehicle used as a bait vehicle in offense number 98 4439331" by the department. You state that the "[d]epartment has released a response to items 1, 2, 3, 6, 7, and 8" of the request. You claim, however, that the remaining information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication. . . .

Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. See Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state that the requested information relates to pending and ongoing law enforcement and prosecution efforts in "thirteen cases involving the vehicle." Furthermore, you explain that "[t]he dissemination of this information would be detrimental to the efforts of the police department," to prevent automobile theft and prosecute offenders. As the requested information relates to pending criminal charges and prosecution, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. Therefore, we conclude that the department may withhold most of the requested information from disclosure under section 552.108(a)(1).

However, we note that "basic information about an arrested person, an arrest, or a crime" is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report.<sup>1</sup> See generally *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14<sup>th</sup> Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). In this instance, except as noted below, the submitted list responsive to Item 4 of the request appears to be basic information not excepted from required public disclosure. Thus, except for basic information, the remaining information responsive to the request may be withheld from disclosure under section 552.108(a)(1).

Although you have not raised section 552.101 as an applicable exception, we note that the Office of the Attorney General will raise section 552.101 on behalf of a governmental body when necessary to protect third-party interests. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987). Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section also encompasses information protected by statute. Section 58.007 of the Family Code applies to juvenile law enforcement records concerning conduct that occurred on or after September 1, 1997.<sup>2</sup>

The submitted list responsive to Item 4 of the request, and otherwise not excepted under section 552.108, contains certain information subject to section 58.007, since the list has references to juvenile offender conduct that occurred on or after September 1, 1997. We have marked the information subject to section 58.007(c) which must be withheld. Accordingly, you must withhold the marked information under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code, and release the remaining information in Item 4 of the request.

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<sup>1</sup>Basic information in an offense report generally may not be withheld under section 552.103. Open Records Decision No. 597 (1991).

<sup>2</sup>We have previously found that section 58.007 of the Family Code does not make confidential juvenile law enforcement records concerning juvenile conduct occurring on or after from January 1, 1996 to August 31, 1997, that are maintained by law enforcement agencies. Open Records Decision No. 644 (1996). Juvenile law enforcement records concerning conduct that occurred before January 1, 1996, are governed by former section 51.14(d) of the Family Code, which is continued in effect for that purpose. Act of June 2, 1997, H.B. 1550, 75<sup>th</sup> Leg., R.S., ch. 1086, § 53, 1997 Tex. Gen. Laws 4179, 4199.

As we resolve your request under section 552.108, we need not specifically address your section 552.103 exception at this time. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is fluid and cursive, with a large initial "S" and a stylized "H".

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/mjc

Ref.: ID# 117489

Enclosures: Submitted documents

cc: Ms. Elaine Carpenter  
Attorney at Law  
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(w/o enclosures)